

AMENDMENTS TO THE DRAWINGS

The attached sheet of drawings includes changes to FIGS. 1A and 1B. This sheet, which includes FIGS. 1A and 1B, replaces the original sheet including FIGS. 1A and 1B. In FIG. 1A, reference number 36 is altered to more clearly show what it is pointing to. In FIG. 1B, reference number 16 is changed to reference number 14.

Attachment: 1 Replacement sheet

REMARKS

The pending Office Action addresses claims 1-19, rejecting all claims.

Drawings

The drawings are objected to due to typographical errors in FIGS. 1A and 1B. These figures have been corrected as stated above, and a replacement sheet is attached with the corrected figures.

Specification

The specification is objected to due to a typographical error on page 7. Reference number 14 on line 26 has been changed to reference number 16, thus correcting the error cited by the Examiner.

Claim Objections

Claim 3 is objected to due to the phrase “pointed proximal end, a distal end.” Claim 3 is amended to clarify that the trocar has a “proximal end, a pointed distal end.”

Claim Rejections under 35 U.S.C. § 102

(1) U.S. Patent No. 6,517,546 of Whitaker et al.

Claims 1, 3-13, and 15-19 are rejected pursuant to 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,517,546 of Whitaker et al.

Independent claim 1 recites an adjustable drill guide assembly for forming a transverse bore through a bone tunnel of a bone. The assembly comprises a guide frame including an arm portion and a base portion that extends transversely to the arm portion. A rod member connects to the base portion and extends transversely to the base portion and parallel to the arm portion when connected to the base portion. The rod member has an elongated stem portion for extending into the bone tunnel of the bone. A guide member is configured for connection to the arm portion. The guide member includes a channel extending therethrough at an angle normal to

a longitudinal axis of the arm portion when the guide member is connected to the arm portion. The guide member is configured to be selectively moveable and lockable along a length of the arm portion. The arm portion includes indicia representing the relative height of the channel with respect to the bone tunnel when the elongated stem portion is inserted inside the bone tunnel.

Whitaker does not teach a guide member that is *selectively* moveable and lockable along an arm portion of a drill guide device. While the trocar sleeve guide of the device in Whitaker can be removably connected to the arm portion (see Column 6, starting at line 27 of Whitaker), there is no indication in the Whitaker reference that the trocar sleeve guide is able to be selectively moved and locked along the arm portion. The guide member as recited in claim 1 is *selectively* movable and lockable to deliver the cross pins at desired locations, for example, at a distance near the entrance to the bone tunnel (see specification, page 3, line 21). There is no adjustment made to the location of the trocar sleeve guide in Whitaker for the purpose of effecting a desirable placement of the trocars in the bone tunnel.

In addition, claim 1 recites an arm portion including indicia representing the relative height of the channel with respect to the bone tunnel when the elongated stem portion is inserted inside the bone tunnel. Whitaker does not teach or suggest including indicia on the arm portion of its device.

Accordingly, claim 1 and dependent claims 3-10 which depend therefrom, distinguish over Whitaker.

Claim 11 recites a method for fixing a tissue graft within a bone tunnel in a femoral bone. The method comprises the steps of preparing a bone tunnel in the bone for insertion of a tissue graft and providing an adjustable drill guide assembly including a guide frame having an arm portion and a base portion that extends transversely to the arm portion. The drill guide assembly must further include a rod member that connects to the base portion and extends transversely to the base portion and that parallel to the arm portion when connected to the base portion. The rod member further has an elongated stem portion for extending into the bone tunnel of the bone. The drill guide assembly also must have a guide member that is configured for connection to the arm portion and it must include a channel extending therethrough at an angle normal to a

longitudinal axis of the arm portion when the guide member is connected to the arm portion. A further requirement is that the guide member be configured to be selectively moveable and lockable along a length of the arm portion. The method further includes the step of forming a bore transverse to the bone tunnel at a desired location near the entrance to the bone tunnel, placing the tissue graft inside the bone tunnel, and securing the tissue graft within the bone tunnel at the location of the bore.

Whitaker does not teach a method for fixing a tissue graft within a bone tunnel in which the guide member can be configured to be selectively moveable and lockable along an arm portion of a drill guide. Whitaker further fails to disclose the step of forming a bore transverse to the bone tunnel at a desired location near the entrance to the bone tunnel. Not only is there no mention of forming such a bore near the entrance to the bone tunnel, Whitaker in fact states that it is preferable for the bores to be positioned just below the patient's tibial plateau (see Column 6, lines 35-37 of Whitaker).

Accordingly, claim 11 and dependent claims 12, 13, and 15-19 which depend therefrom, distinguish over Whitaker.

(2) U.S. Patent No. 6,066,173 of McKernan et al.

Claims 1, 3-13, and 15-19 are rejected pursuant to 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,066,173 of McKernan et al.

Regarding the rejection of independent claim 1, McKernan does not teach a guide member that is *selectively* moveable and lockable along an arm portion of a drill guide device. The trocar sleeve guide of the device in McKernan can be removably connected to the arm portion (see Column 11, starting at line 4 of McKernan), but there is no teaching that the trocar sleeve guide is selectively moveable and lockable along the arm portion. The guide member as recited in claim 1 is *selectively* movable and lockable so that the cross pins can be delivered at desired locations, for example, at a distance near the entrance to the bone tunnel (see specification, page 3, line 21). McKernan fails to teach that its trocar sleeve guide is not adjusted for the purpose of effecting a desirable placement of the trocars in the bone tunnel.

In addition, claim 1 recites an arm portion including indicia representing the relative height of the channel with respect to the bone tunnel when the elongated stem portion is inserted inside the bone tunnel. McKernan does not teach or suggest including indicia on the arm portion of its device.

Accordingly, claim 1 and dependent claims 3-10 which depend therefrom, distinguish over McKernan.

Regarding the rejection of claim 11, this claim, as noted above, is directed to a method for fixing a tissue graft within a bone tunnel in a femoral bone. The method comprises the steps of preparing a bone tunnel in the bone for insertion of a tissue graft and providing an adjustable drill guide assembly including a guide frame having an arm portion and a base portion that extends transversely to the arm portion. The drill guide assembly must further include a rod member that connects to the base portion and extends transversely to the base portion and that parallel to the arm portion when connected to the base portion. The rod member further has an elongated stem portion for extending into the bone tunnel of the bone. The drill guide assembly also must have a guide member that is configured for connection to the arm portion and it must include a channel extending therethrough at an angle normal to a longitudinal axis of the arm portion when the guide member is connected to the arm portion. A further requirement is that the guide member be configured to be selectively moveable and lockable along a length of the arm portion. The method further includes the step of forming a bore transverse to the bone tunnel at a desired location near the entrance to the bone tunnel, placing the tissue graft inside the bone tunnel, and securing the tissue graft within the bone tunnel at the location of the bore.

There is no teaching or suggestion in McKernan that a bore is formed at any desired location in relation to the entrance of the bone tunnel. Further, McKernan also fails to teach a guide member that is *selectively* moveable and lockable along an arm portion of a drill guide device.

Accordingly, claim 11 and dependent claims 12, 13, and 15-19 which depend therefrom, distinguish over McKernan.

Claim Rejections under 35 U.S.C. § 103

(1) U.S. Patent No. 6,066,173 of McKernan et al. in view of U.S. Patent No. 5,350,380 of Goble et al.

Claim 2 is rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,066,173 of McKernan et al. in view of U.S. Patent No. 5,350,380 of Goble et al. Claim 2 is canceled without prejudice.

(2) Claim 14


Claim 14 is rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable as the Examiner asserts that it would have been obvious to form the bore 3-5mm from the bone tunnel entrance. Assuming that the Examiner relies upon the Goble reference for a suggestion or motivation to so place the bore, this reliance is misplaced. Goble makes no such suggestion. In fact, Goble actually teaches away from such positioning of the bore as it teaches at column 7, line 65 – column 8, line 16 that the bore should be formed “25mm from the end 14 of drill 12.” this positioning, as shown in the figures of Goble, is nowhere near the bone tunnel entrance. Accordingly, claim 14, which depends from claim 11, distinguishes over the cited references.

Conclusion

In view of the above amendment and remarks, Applicant believes the pending application is in condition for allowance.

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Respectfully submitted,

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Attachments